U. S.

DEC 29 1971

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1971

No. 71-840

THOMAS C. BORING, JR.,
Petitioner,

vs.

STATE OF MISSISSIPPI,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

To the Supreme Court of the State of Mississippi

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To the Supreme Court of the State of Mississippi

INTRODUCTORY STATEMENT

The Petitioner, Thomas C. Boring, Jr., respectfully petitions for a writ of certiorari to review a judgment and order made by the Supreme Court of the State of Mississippi unofficially reported as Boring v. State, 253 So2d 251, affirming a judgment against the petitioner made and entered by the Circuit Court of Leflore County, Mississippi, on November 18, 1970.

The opinion of the Mississippi Supreme Court is appended, bound with this petition and marked Appendix A.

The decision of the Mississippi Supreme Court was handed down on September 27, 1971. The judgment is appended, bound with this petition and marked Appendix D.

Petition for rehearing was denied on October 25, 1971. The judgment denying the petition for rehearing is appended, bound with this petition and marked Exhibit E.

The defendant was permitted to remain at large on bond pending a determination of this petition. An order to that affect is appended, bound with this petition and marked Appendix F.

JURISDICTIONAL STATEMENT

Petitioner believes this Court has jurisdiction to review the decision by writ of certiorari by virtue of 28 USC 1257 (3).

QUESTION PRESENTED FOR REVIEW

Did the affidavit for search warrant establish probable cause for the issuance of the search warrant?

STATEMENT OF THE CASE

The petitioner, a dentist in Greenwood, Mississippi, purchased a residence in Greenwood on August 22, 1959. A search of his residence was made on January 31, 1970, subsequent to this Court's decision in *Spinelli v. United States*, 393 U.S. 14, 89 S.Ct. 584, 21 L. Ed. 2d 637 (January 27, 1969).

Sometime between August 22, 1959 and January 31, 1970, an unnamed and unknown informant, a citizen of Lefore County, saw marihuana in the petitioner's residence in Greenwood, and, on January 30, 1970, furnished to an inspector for the Mississippi Highway Patrol a small

sample of marihuana taken from the petitioner's residence at sometime in the past.

The unnamed and unknown informant had known the inspector for about one year and on at least one occasion had given the inspector information of some nature that proved to be true.

The inspector had received other information concerning several persons who he suspected of being, or who were "known" by him to be, marihuana users, go in and out of the petitioner's residence, and from some unknown source the inspector knew or suspected the petitioner, and a female person residing in his home, to be users of marihuana and other drugs.

The record is silent as to how the unknown and unnamed informant came about his information. The informant did, however, relate to the inspector that the petitioner had in his residence marihuana and a marihuana processing device. The record does not disclose whether the informant heard an idle rumor or that he personally observed the marihuana which was later seized. The search was conducted in the early morning hours and the idle rumor proved to be true. Approximately four pounds of marihuana, at a cost of $100 a pound, were found in the residence, together with strainers used to manicure the marihuana and pipes used to smoke it.

The petitioner filed a Sworn Motion to Suppress Evidence, which properly and timefully raised his Federal constitutional claims that the search and seizure were illegal and unlawful, and contended that the introduction of the marihuana into evidence would deny petitioner the rights guaranteed to him by the Fourth and Fifth Amendments to the Constitution of the United States as made applicable to the states by Section 1 of the Fourteenth Amendment. A hearing was held on March 16, 1970, and

an order was issued denying and overruling the Motion to Suppress Evidence.

The petitioner was convicted and sentenced to serve a term of three and one-half years in the Mississippi State Penitentiary and to pay a fine of $1,000. A motion for a new trial, raising the Federal constitutional claims, was filed and overruled. The case was appealed to the Mississippi Supreme Court and the Federal constitutional claims were renewed. The case was affirmed by the Mississippi Supreme Court. A petition for rehearing was denied, and the petitioner, having exhausted his state remedies, petitions this Court for certiorari.

REASONS FOR GRANTING THE WRIT

The decision rendered by the Mississippi Supreme Court is in conflict with decisions of this Court. This case is of particular importance in view of this Court's decision in *United States v. Harris*, 91 S. Ct. 2075 (June 28, 1971).

ARGUMENT

The "Underlying Facts and Circumstances" sheet attached to the affidavit in the present case is contained in the opinion of the Mississippi Supreme Court which is appended. Also appended and marked Appendix B is the affidavit in *United States v. Harris.* Appended and marked Exhibit C is the affidavit in *Jones v. United States,* 362 U.S. 257, 80 S.Ct. 725, 4 L. Ed. 2d 697 (1962).

The information obtained by the inspector from the informant was based on casual rumor circulating in the community; however, the affidavit is so cleverly and artfully worded that a casual reading of the affidavit would suggest probable cause existed for the issuance of the search warrant. The affidavit in this case would pass muster as "an entry in an essay contest." *Spinelli v. United States,* 393 U.S. 410, 438, 89 S. Ct. 584, 600, 21 L. Ed. 2d 637 (1969) (Fortas, J., dissenting).

Affidavits for search warrants should be strictly construed against the authority issuing the wararnt and liberally construed in favor of the citizens. *Elardo v. State,* 164 Miss. 628, 145 So. 615 (1933); *Sgro v. United States,* 287 U.S. 206, 210, 53 S. Ct. 138, 77 L. Ed. 260, 262 (1932); *Grau v. United States,* 287 U.S. 124, 128, 53 S. Ct, 38, 77 L. Ed. 212, 215 (1932); *United States v. Lefkowitz,* 285, U.S. 452, 464, 52 S. Ct. 420, 76 L. Ed. 877, 882 (1932); *Go-Bart Importing Co. v. United States,* 282 U.S. 344, 357, 51 S. Ct. 153, 75 L. Ed. 374, 382 (1931); and *Byars v. United States,* 273 U. S. 28, 32, 47 S. Ct. 248, 71 L. Ed. 520, 523 (1927).

A careful reading of the affidavit shows that the inspector did not know the informant well and the inspector may or may not have been a citizen of Leflore County. The informer had given the inspector information in the past of some sort which proved to be correct. So far as

the affidavit shows, the information could have been the proper location of the Courthouse.

How the inspector discovered that the informant was of high moral character is not shown in the affidavit. The affidavit does not show whether the inspector was in a position to know the character, high or low, of the informant.

The affidavit does not show how the informant came about his information that the petitioner had marihuana and a marihuana processing device in his residence. The affidavit does not show whether the informant himself placed the marihuana device in the house. Nor does it state how the petitioner knew that any marihuana or any device was in his residence.

The affidavit carefully avoids any allegation that the petitioner was aware that marihuana had ever been in his residence at any time in the past, or when the informant saw the marihuana in petitioner's residence, or when the sample was taken. The affidavit does not show whether the informant himself took the sample into the house and then walked out with the sample, or whether the petitioner actually knew the marihuana was there in the past.

The record clearly shows that Dr. Boring purchased the searched residence on August 22, 1959. The affidavit fails to show whether the informant saw marihuana in the petitioner's residence in 1960, 1965 or 1970, and fails to show whether the sample was taken from petitioner's residence in 1960, 1965 or 1970.

The affidavit fails to show what reliance the magistrate should place on the inspector's claim that the inspector knew the petitioner to be a user of marihuana. There is no allegation in the affidavit that the magistrate even knew the inspector or should place any trust in him. The same is true of the allegation that the inspector had personally

observed several persons known by the inspector to be marihuana users go to and from petitioner's residence.

The affidavit fails to state that the information obtained from the informant was reliable. The affidavit fails to state that the informant was a credible person or a "prudent" person.

The affidavit is not sufficiently detailed for the tip to be self-verifying.

The affidavit fails to state that the affiant believed one word of the information given to him by the informant.

The magistrate had to guess as to exactly what information the informant had, and how the informant came about the information. The magistrate had to guess as to whether the affiant believed what the informant had told the affiant. The magistrate could well have concluded that the informant, a resident of Leflore County, had known the affiant since January of 1969; the informant gave the affiant information on one occasion which proved to be true and correct, but no arrests were made and no convictions were obtained as a result of the information given by the affiant; the informant had sometime in the remote past been inside the residence of the petitioner and did observe marihuana there and did take some marihuana out of the residence with him, and at a much later date, on January 30, 1970, gave a sample of the marihuana which he had taken from the residence in the past to the affiant; and that the informant heard a casual rumor circulating in the community, buttressed by the fact that the informant had seen marihuana in the petitioner's residence in the remote past. The magistrate could well have issued the warrant based on his conclusion that if marihuana is found in a residence during any ten year period, then it is probable other marihuana will be in the residence now.

There was a motive for the informant in this case to give false information. The petitioner, a dentist, is white.

He treated black children for the Head Start Program in the Mississippi Delta. He was unpopular. It was necessary for the white community to get rid of him.

This Court has never upheld a search based on an affidavit as vague and remote as the affidavit in this case. The affidavit here fails to meet the requirements established by this Court in *Jones, Spinelli* and *Harris* in the following particulars:

1. The affidavit in the present case does not contain an ample factual basis for believing the informant. When coupled with affiant's own knowledge of the petitioner's background, the affidavit does not afford a basis upon which a magistrate could reasonably issue a warrant.

2. The averments of previous reliability in the affidavit in the present case have no relation to the informant's reliability to give information concerning criminal conduct.

3. There were no statements made by the informant which were against his penal interest in the present case.

4. There is no allegation in the present affidavit that the informant had any personal knowledge of criminal conduct by the petitioner.

5. The affidavit does not sufficiently set forth facts and circumstances from which the magistrate might have properly concluded that the informant in purporting to detail his observation was probably telling the truth.

6. The credibility requirement essential to the sufficiency of probable cause is lacking in the present affidavit.

7. The affidavit is barren of anything that enables the magistrate to judge for himself the credibility of the informant.

8. The information given to the affiant was too "stale" to justify the informant's claim that the petitioner had marihuana in his residence.

Assuming *Harris* to be retroactive, rather than prospective, is no comfort to the proponents of the affidavit here.

CONCLUSION

Petitioner respectfully submits that a review of the record would indicate that this petition for a writ of certiorari should be granted, and that the judgment of the Mississippi Supreme Court affirming the judgment of the Circuit Court of Leflore County, Mississippi, should be set aside, and the judgment of conviction reversed.

Respectfully submitted

W. S. MOORE
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Counsel for Petitioner

APPENDIX A.

Thomas C. Boring, Jr. v. State of Mississippi

No. 46399

Miss., 253 So. 2d 251

Supreme Court of Mississippi

Sept. 27, 1971

Rehearing Denied Oct. 25, 1971

Defendant was convicted before the Circuit Court, Leflore County, B. B. Wilkes, Jr., of possession of marijuana and he appealed. The Supreme Court, Rodgers, P. J., held that affidavit which stated that informant had seen marijuana in place to be searched, that informant had furnished officer a sample of marijuana and that officer had personally observed known users of marijuana going to and from place sought to be searched stated facts sufficient to establish probable cause for issuance of search warrant.

Affirmed.

* * * * * * *

W. S. Moore, Jackson, for appellant.

A. F. Summer, Atty. Gen., by Guy N. Rogers, Asst. Atty. Gen., and Velia Ann Mayer, Special Asst. Atty. Gen., Jackson, for appellee.

Rodgers, Presiding Justice:

The appellant Thomas C. Boring, Jr. was convicted in the Circuit Court of Leflore County, Mississippi, and sentenced to serve a term in the state penitentiary and to pay a fine for the crime of possession of marijuana.

The appellant has appealed to the court and now contends that the trial court committed reversible error in permitting the introduction of evidence with reference to the discovery of marijuana on the premises of the appellant because the search warrant used to gain entrance to the property was obtained and served by a member of the Highway Patrol who, it is contended, had no authority to serve a search warrant, thus rendering the search illegal and the evidence secured thereby inadmissible at the trial. Moreover, it is said the affidavit made by the officer was insufficient to establish probable cause for the issuance of a search warrant.

The record shows that R. L. (Ronnie) White, an inspector for the Mississippi Highway Patrol, appeared before a Justice of the Peace and made an affidavit in which he testified that he had been given information from a reliable person who had previously given other information which proved to be true and correct, and who stated, among other things, that he had seen marijuana in the residence of Thomas Chester Boring, Jr., and that this informer had furnished affiant a sample of the drug.

A search warrant was issued by the Justice of the Peace addressed to any lawful officer of ———— County commanding him to search the premises described in the search warrant. The original and one copy of the search warrant were given to R. L. White, the Highway Patrol inspector. The inspector and members of the local police force of Greenwood, Mississippi, went to the home of appellant, and after they were refused permission to enter the premises, the inspector forcefully pushed his way into the house. The officers discovered marijuana and certain articles used in the preparation and use of marijuana. The marijuana and other articles were seized and R. L. White made a written return upon the original search warrant attaching an inventory of the seized contraband.

During the search of appellant's home he was arrested and properly warned not to make any statement. Appellant without being questioned voluntarily told the officers "You caught me rehanded" and said, "I am guilty, it's mine." He also said, "There are four pounds there, two different kinds." He later said, "I paid a hundred dollars a pound."

One Mona Citro, a woman, was also arrested at the time of the search; she lived in the house and was present at the time of the search.

The appellant made a motion before the trial to suppress the evidence (under the rule in Henry v. State, 253 Miss. 263, 154 So.2d 289, 174 So.2d 348 (1965)) upon the ground that the search of appellant's home was illegal because there was no probable cause shown for the issuance of the search warrant. It was contended that the statements in the affidavit were insufficient to show probable cause. The trial court heard evidence upon the motion to suppress and overruled the motion. The case was continued and at the next term of court the appellant was tried. The trial court overruled a motion for a directed verdict upon the grounds originally argued in the motion to suppress the evidence. No new grounds were submitted to the trial court.

Upon appeal to this Court the appellant now contends, in addition to his original motion, that the inspector of the Highway Patrol had no authority to obtain and serve a search warrant for marijuana and that, therefore, evidence obtained by the officers was not admissible on the trial.

We do not here consider the last contention because it was not submitted to the trial court and is raised for the first time on appeal.

Objections to evidence must bring to the attention of the trial judge the specific ground on which it is con-

tended such evidence is inadmissible so that the trial judge may determine whether or not such evidence is available to objector's adversary.

The rule for requiring specific objections is necessary because to permit litigants to hold back objections until on appeal would mean that costly new trials would be had where valid objections could have been sustained during the trial. Roberds v. State, 187 So. 755 (Miss. 1939); Kimbrall v. State, 178 Miss. 701, 174 So. 47 (1937); Dobbs v. State, 167 Miss. 609, 142 So. 500 (1932); Williams v. State, 171 Miss. 324, 157 So. 717 (1934). This rule has been recognized by the Federal Court in this jurisdiction. Gann v. Smith, D.C., 318 F.Supp. 409 (1970).

In Cox v. State, 146 Miss. 685, 112 So. 479, at 481 (1927) where the affidavit failed to show that affiant "does believe that intoxicating liquor is being stored, etc." the Court said "the affidavit was not objected to on that ground in the court below, and consequently such an objection cannot be here considered."

We have said that where no objection was made in the trial court that a search warrant was not timely served, the objection cannot be raised in this court. Jordan v. State, 147 Miss. 24, 112 So. 590 (1927).

In the case of Conwill v. State, 147 Miss. 118, 120, 112 So. 868; 869 (1927) we said:

> "The defendant having made specific objection to the search warrant when offered in evidence, we do not think he is now entitled to raise questions which were not brought up for the decision of the court below."

In another case where the search warrant was not introduced this Court said:

> "It is too late to raise these questions. Appellant had full opportunity of raising them in the court be-

low, and failed to do so. He chose on the trial to object alone to the evidence on the specific ground that the affidavit failed to show whose property was to be searched for, not on the ground that the affidavit was not introduced in evidence. Questions will not be decided on appeal which were not presented to the trial court and that court given an opportunity to rule on them. In other words, the trial court cannot be put in error, unless it has had an opportunity of committing error." Boutwell v. State, 165 Miss. 16, 27-28, 143 So. 479, 482 (1932).

The appellant recognized the foregoing rule but contended that this Court should apply the "plain error" rule announced in Wright v. State, 231 So. 2d 777 (Miss 1970). In that case we pointed out that we had previously held in Presley v. State, 229 So. 2d 830 (Miss. 1969) that an agent of the Alcoholic Beverage Controla Division of the State Tax Commission did not have authority to serve a search warrant issued to search for gambling equipment. We, therefore, applied the "plain error" rule in *Wright*, supra.

We cannot say there was "plain error" committed by the trial court in the instant case since Section 8082, Mississippi Code 1942 Annotated (Supp. 1970), subsection 9, third paragraph, is in the following language:

> "Provided, however, the additional powers herein granted to or vested in the Department of Public Safety or any of its officers or employees by subsection 9 of this section, excepting investigating powers, and those powers of investigators who shall have general police power, being the investigators in the Mississippi Livestock Theft Bureau, the Auto Theft Bureau, and the Identification Division of the Department of Public Safety, shall not be exercised by the Department of Public Safety, or any of its officers or

employees, except upon authority and direction of the Governor or Acting Governor, by proclamation duly signed, in the following instances, to wit:"

The Mississippi Legislature has the absolute authority to fix the qualifications of persons authorized to serve process. See cases collected under 72 C.J.S. Process § 27, p. 1027 (1951). We are of the opinion that the Legislature has granted authority to investigators named in the foregoing Code section to serve a search warrant.

We think the two paramount questions presented for our consideration are: (1) whether or not the trial judge should have excluded the evidence obtained by the search, because, the underlying facts and circumstances set forth in the affidavit on which the warrant, was issued, did not establish probable cause requiring the issuance of a search warrant; and (2) whether or not the trial court erred in refusing to permit the defendant to continue to ask a codefendant questions with references to the ownership of the articles seized by the officers after the witness had refused to answer such questions upon the ground the answers might tend to incriminate her.

The motion of the defendant, appellant here, to suppress the evidence properly raised the issue as to whether or not the search warrant was legally issued upon probable cause. The objection to the evidence and the motion for a directed verdict were based upon the grounds set forth in the petition to suppress the evidence. The underlying facts set forth in the affidavit were as follows:

"UNDERLYING FACTS AND CIRCUMSTANCES"

"A citizen of Leflore County, Mississippi, who I have known for about one year, who is of high moral character and has given me information in the past that has proven to be true and correct, told me that

Thomas Chester Boring Jr. had in his residence, located at 508 MacArthur Avenue, Greenwood, Mississippi, a dangerous narcotic, to wit, marihuana, and a marihuana processing device.

"This same citizen has seen marihuana in the above mentioned residence and has furnished me with a small sample of marihuana taken from the above mentioned residence. This sample was furnished me on January 30, 1970.

"I have personally observed several persons known by me to be marihuana users go to and from this residence.

"I personally know Thomas Chester Boring, Jr. and Mona Citro who also resides at 508 MacArthur Avenue, Greenwood, Mississippi, to be users of marihuana and other drugs."

It is, of course, elementary that an affidavit for a search warrant must be based upon evidentiary facts and that such facts must be of sufficient weight to establish probable cause for the search. It has been pointed out by one text writer that the evidentiary facts must be such as will lead a man of prudence and caution to believe that the offense has been committed but such evidence must not be so meager as to constitute merely the conclusion of the applicant and an invasion of the judicial function of the magistrate. 79 C.J.S. Searches and Seizures, § 74, p. 873 (1952):

This Court has said:

"The law does not authorize an officer to make a search on mere information of the informant, but the information must be communicated as a fact within the knowledge of the person communicating the information. In other words, a search warrant is not issued except on information amounting to probable cause,

and mere rumor is not sufficient to constitute probable cause." Elardo v. State, 164 Miss. 628, 632-633, 145 So. 615, 616 (1933); followed in Norman v. State, 167 Miss. 690, 146 So. 639 (1933).

The appellant contends that our discussion in Barker v. State, 241 So.2d 355 (Miss. 1970) and Strode v. State, 231 So.2d 779 (Miss. 1970) is controlling in the instant case, and entitles appellant to an acquittal. In Barker, supra, the statement made by the informer was to the effect that he had observed the defendant with marijuana cigarettes two weeks before at *another place* was not sufficient probable cause to believe marijuana was then kept in the place proposed to be searched.

In Strode v. State this Court, en banc, examined the various federal cases on the question of probable cause and said at page 782:

> "Probable cause exists when a police officer has personal knowledge and reasonably trustworthy reports of facts which are sufficient to warrant a reasonably cautious man's believing an offense has been or is being committed. The application for search warrant complies fully with the requirements of decisions of the United States Supreme Court and of this Court." (Citing many cases)

The search warrant issued to the officers in that case was based upon information obtained from an informant who was said to be reliable but whose identity the officers refused to divulge. We also pointed out in *Strode* that probable cause requires only a showing of probability.

The affidavit in the instant case not only says that the informant had seen marijuana in the residence, or place to be searched, but that the informant had actually furnished the officer a sample of the drugs; moreover, the officer had personally observed known users of marijuana go to and from the place sought to be searched.

The actual known facts plus the surrounding circumstances were such as to lead a reasonably prudent and cautious man to believe that the law was being violated and that contraband was being kept in the residence of the appellant at the time the search warrant was issued.

We are, therefore, of the opinion that the affidavit stated facts sufficient to establish probable cause resulting in the proper issuance of the search warrant here involved. The evidence obtained by the search was properly admitted to the jury on the trial of this case. We believe the facts here presented meet the requirements set forth in O'Bean v. State, 184 So.2d 635 (Miss. 1966), and are in accord with our holding in *Strode*.

The next point argued by the appellant is based upon an objection he made to the ruling of the trial court in refusing to permit the appellant to ask detailed questions with reference to the articles obtained in the search. Mona Citro, a woman who was in the home of the appellant and present at the time of the search, was arrested and indicted along with the appellant on a charge of possession of marijuana. The appellant offered her as a witness after the State had closed its case, but she refused to testify upon the ground that her testimony might tend to incriminate her. The appellant, however, insisted that he had a right to ask her in detail about each article exhibited and obtained in the search. Apparently, the appellant wanted her to say that if she answered the question as to whether or not she was in possession of each article her answer might tend to incriminate her and that such an answer would tend to be an admission of her guilt and the innocence of the appellant.

It has been pointed out in the federal jurisdictions that the invocation of the Fifth Amendment privilege against self-incrimination does not give rise to an inference of guilt. United States v. Tomaiolo, 249 F.2d 683 (2d Cir.

1957); United States ex rel. Belfrage v. Shaughnessy, 212 F.2d 128 (2d Cir. 1954); United States v. Atnip, 374 F.2d 720 (7th Cir. 1967).

We are of the opinion that the trial court was correct in refusing to require the witness to answer questions in detail before the jury about the circumstances surrounding the alleged crime for which she was under indictment. After the witness had claimed her privilege to remain silent it was the duty of the trial court to protect the witness against any further effort to require her to incriminate herself by her own testimony. Hutchins v. State, 212 Miss. 145, 54 So.2d 210 (1951). Compare Holman v. State, 72 Miss. 108, 16 So. 294 (1894).

From the foregoing authorities we have reached the conclusion that there is no reversible error shown in the record of this case and for that reason the judgment of the trial court must be affirmed.

Affirmed.

Jones, Brady, Smith and Sugg, JJ., concur.

APPENDIX B

Roosevelt Harris has had a reputation with me for over four years as being a trafficker of nontaxpaid distilled spirits, and over this period I have received numerous information from all types of persons as to his activities. Constable Howard Johnson located a sizeable stash of illicit whiskey in an abandoned house under Harris' control during this period of time. This date, I have received information from a person who fears for their life and property should their name be revealed. I have interviewed this person, found this person to be a prudent person, and have, under a sworn verbal statement, gained the following information: This person has personal information of and has purchased illicit whiskey from within the residence described, for a period of more than 2 years, and most recently within the past two weeks, has knowledge of a person who purchased illicit whiskey within the past two days from the house, has personal knowledge that the illicit whiskey is consumed by purchasers in the outbuilding known and utilized as the "dance hall," and has seen Roosevelt Harris go to the other outbuilding, located about 50 yards from the residence, on numerous occasions, to obtain whiskey for this person and other persons.

APPENDIX C

In the late afternoon of Tuesday, August 20, 1957, I, Detective Thomas Didone, Jr. received information that Cecil Jones and Earline Richardson were involved in the illicit narcotic traffic and that they kept a ready supply of heroin on hand in the above mentioned apartment. The source of information also relates that the two aforementioned persons kept these same narcotics either on their person, under a pillow, on a dresser or on a window ledge in said apartment. The source of information goes on to relate that on many occasions the source of information has gone to said apartment and purchased narcotic drugs from the above mentioned persons and that the narcotics were secreted in the above mentioned places. The last time being August 20, 1957.

Both the aforementioned persons are familiar to the undersigned and other members of the narcotic Squad. Both have admitted to the use of narcotic drugs and display needle marks as evidence of same.

This same information, regarding the illicit narcotic traffic, conducted by Cecil Jones and Earline Richardson, has been given to the undersigned and to other officers of the narcotic squad by other sources of information.

Because the source of information mentioned in the opening paragraph has given information to the undersigned on previous occasion and which was correct, and because this same information is given by other sources does believe that there is now illicit narcotic drugs being secreted in the above apartment by Cecil Jones and Earline Richardson.

DET. THOMAS DIDONE, JR.
Narcotic Squad, MPDC

Subscribed and sworn to before me this 21 day of August, 1957.

JAMES F. SPLAIN
U. S. Commissioner, D.C.

APPENDIX D

In the Supreme Court of Mississippi

Monday, September 27, 1971 Court Sitting

Thomas C. Boring, Jr.

No. 46,399 vs.

State of Mississippi

This cause having been submitted at a former day of this Term on the record herein from the Circuit Court of Leflore County and this Court having sufficiently examined and considered the same and being of the opinion that there is no error therein doth order and adjudge that the judgment of said Circuit Court rendered in this cause on the 19th day of November 1970—a conviction of possessing marijuana and a sentence to pay a fine of $1,000.00 and to serve a term of 3½ years in the State Penitentiary (12 days credit to be given for time in the County Jail)—be and the same is hereby affirmed. It is further ordered and adjudged that the State of Mississippi do have and recover of and from the appellant and T. C. Boring and Mrs. T. C. Boring, sureties on the appeal bond herein, all of the costs of this appeal to be taxed, for which let proper process issue.

Minute Book "BP" Page 414.

APPENDIX E

In the Supreme Court of Mississippi

Monday, October 25, 1971 Court Sitting

Thomas C. Boring, Jr.

No. 46,399 vs.

State of Mississippi

This cause this day came on to be heard on the petition for a rehearing filed herein and this Court having sufficiently examined and considered the same and being of the opinion that the same should be denied doth order and adjudge that said petition be and the same is hereby denied.

Minute Book "BP" Page 429.

APPENDIX F

In the Supreme Court of Mississippi

October 25, 1971, Court Sitting

Thomas C. Boring, Jr.

No. 46,399 vs.

State

Ordered: The appellant, Thomas C. Boring, Jr., is permitted to remain at large on the same $20,000.00 bond filed in this Court on September 27, 1971, pending a determination of his petition for certiorari to be filed in the United States Supreme Court, and the mandate is hereby stayed, pending such final determination in the United States Supreme Court, provided he files his petition for certiorari within sixty days hereof.

Minute Book "BP", Page 434.